

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

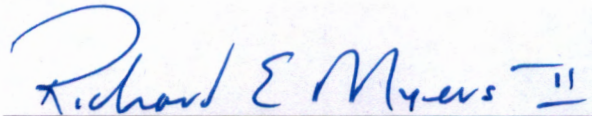
CRIMINAL NO. 5:22-CR-198-1M  
CIVIL NO. 5:23-CV-741-M

MALCOLM MOORE, )  
Petitioner, )  
 )  
v. )  
 )  
UNITED STATES OF AMERICA, )  
Respondent. )

**ORDER**

This matter comes before the court on Petitioner's motion to withdraw his Section 2255 Petition [DE 70]. Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, the court deems as withdrawn the Petition. *See* Fed. R. Civ. P. 41(a)(1)(A)(i) (authorizing voluntary dismissal without court order when such motion is made "before the opposing party serves [] an answer"); Habeas Corpus R. 12 (permitting application of [t]he Federal Rules of Civil Procedure" that "are not inconsistent" with the Habeas Rules). In light of Petitioner's pending direct appeal of his conviction, this voluntary dismissal operates without prejudice to Petitioner's right to file a new petition at the conclusion of that process. *See* Fed. R. Civ. P. 41(a)(1)(B). As a result of this disposition, Docket Entries 62 and 66 are DISMISSED WITHOUT PREJUDICE, and Docket Entry 65 is DENIED AS MOOT.

SO ORDERED this 8<sup>th</sup> day of July, 2024.



RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE